

Remarks

Claims 67-88 were pending in the subject application, with those claims relating to SEQ ID NO: 10 withdrawn from consideration. By this Amendment, Applicants have amended claims 67, 74-78, and 85-88 and added new claims 89-96. Support for the amendments and new claims can be found throughout the subject specification and in the claims as originally filed. Entry and consideration of the amendments presented herein is respectfully requested. Applicants gratefully acknowledge the Examiner's finding that search and examination of claims relating to both of SEQ ID NOs: 8 and 10 is not unduly burdensome; previously withdrawn claims directed to SEQ ID NO: 10 have thus been rejoined. Accordingly, claims 67-96 are currently before the Examiner. Favorable consideration of the pending claims is respectfully requested.

The Examiner notes that the listing of references in the specification is not a proper form for an Information Disclosure Statement (IDS). Applicants submitted an Information Disclosure Statement in the subject application on May 9, 2007, and the Examiner has acknowledged her consideration of this IDS in the instant Action. Applicants acknowledge that only those references submitted in their IDS filed May 9, 2007, or cited on form PTO-892 have been considered by the Examiner.

As an initial matter, Applicants gratefully acknowledge the Examiner's indication that claims 68-73 and 79-84 are objected to but would be allowable if rewritten into independent form to include the limitations of any base and intervening claims.

Claims 67 and 74-77 are rejected under 35 U.S.C. § 102(b) as anticipated by Cooke *et al.* (1988). In addition, claims 67, 74-78 and 85-88 are rejected under 35 U.S.C. § 102(b) as anticipated by Rosen *et al.* (U.S. Patent No. 5,597,709). The Office Action states that both Cooke *et al.* and Rosen *et al.* teach a growth hormone molecule from the placenta which shares more than 85% amino acid identity with that of SEQ ID NOs: 8 and 10 of the instant claims. The molecule of Cooke *et al.* (hGH-V) is shown in Figure 3 and the protein was isolated as evidenced by Figure 4. Rosen *et al.* is further cited as teaching the isolated protein as well as compositions of the protein with a pharmaceutically acceptable carrier. Applicants respectfully assert that the Cooke *et al.* and Rosen *et al.* references do not anticipate the claimed invention as amended. The amended claims require at least 90% sequence identity, but neither Cooke *et al.* nor Rosen *et al.* teach such a polypeptide.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102(b) is respectfully requested.

Claims 78 and 85-88 are rejected under 35 U.S.C. § 103(a) as obvious over Cooke *et al.* (1988). The Office Action notes that Cooke *et al.* does not teach compositions of hGH-V comprising the protein and a pharmaceutically acceptable carrier. However, it would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to make a composition comprising the protein of Cooke *et al.* with a pharmaceutically acceptable carrier for the purpose of studying the functional activity of the protein of Cooke *et al.* The Office Action states that Cooke *et al.* teach that the protein is a variant of growth hormone produced in the placenta, therefore, it is expected to be a protein that regulates growth. Applicants respectfully assert that the claimed invention as amended is not obvious over the cited reference. The claimed invention, as amended, requires at least 90% sequence identity but Cooke *et al.* do not teach such a polypeptide. Accordingly, even if it were assumed for the sake of argument that one of skill in the art would be motivated to combine the protein of Cooke *et al.* with a pharmaceutically acceptable carrier, one would not obtain the claimed invention. Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a) is respectfully requested.

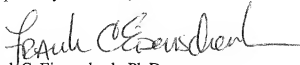
It should be understood that the amendments presented herein have been made solely to expedite prosecution of the subject application to completion and should not be construed as an indication of Applicants' agreement with or acquiescence in the Examiner's position. Applicants expressly reserve the right to pursue the invention(s) disclosed in the subject application, including any subject matter canceled or not pursued during prosecution of the subject application, in a related application.

In view of the foregoing remarks and amendments to the claims, Applicants believe that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

Applicants invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Frank C. Eisenschenk", with a long horizontal flourish extending to the right.

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